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11 Attorneys for Defendants
DeviceVM, INC. a Delaware corporation, and
12 BENEDICT CHONG, an individual

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14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**
16 **OAKLAND DIVISION**

17 PHOENIX TECHNOLOGIES, LTD., a) Case No. C 09-04697-CW
18 Delaware corporation,)
19 Plaintiff,) **STIPULATION AND ORDER**
20 v.) **REGARDING SCHEDULING**
21 DEVICEVM, Inc., a Delaware corporation,) **MATTERS**
22 and BENEDICT CHONG, an individual,)
23 Defendants.)
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WHEREAS, on August 31, 2009, Plaintiff filed the First Amended Complaint in the Superior Court of the State of California in and for the County of Santa Clara;

WHEREAS, on October 1, 2009, Defendants timely removed the case to this Court pursuant to its federal question jurisdiction under 28 U.S.C. § 1441(a);

WHEREAS, on October 8, 2009, Defendants filed a Motion to Dismiss Counts 2, 3, 4 and 5 of the First Amended Complaint;

WHEREAS, on October 16, 2009, this case was reassigned to the Honorable Claudia Wilken for all further proceedings;

WHEREAS, on October 20, 2009, this Court entered a Case Management Scheduling Order for Reassigned Civil Case (“Case Management Order”), which set the hearing on Defendants’ Motion to Dismiss for December 3, 2009;

WHEREAS, the Case Management Order stated that Plaintiff's Opposition brief to Defendants' Motion to Dismiss shall be filed by November 12, 2009, and that Defendants' Reply brief in support of the Motion to Dismiss shall be filed by November 19, 2009;

WHEREAS, the parties have met and conferred and agreed to continue the hearing date for Defendants' Motion to Dismiss due to a scheduling conflict on behalf of DeviceVM's lead counsel;

NOW, THEREFORE, the undersigned parties hereby stipulate and agree, and respectfully request that the Court enter an order, as follows:

1. The hearing on Defendants' Motion to Dismiss shall be continued to December 10, 2009, at 2 p.m.;

2. Plaintiff's Opposition brief shall remain due by no later than November 12, 2009;

3. Defendants' Reply brief shall remain due by no later than November 19, 2009.

IT IS SO STIPULATED.

O'MELVENY & MYERS LLP

Dated: November 5, 2009

By: _____ /s/
Stephen J. Akerley

Attorneys for Defendants DeviceVM, Inc.
and Benedict Chong

1
2 MINTZ, LEVIN, COHN, FERRIS,
3 GLOVSKY AND POPEO, P.C.
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6 Dated: November 5, 2009
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9 By: /s/
10 Karineh Khachatourian
11 Bryan Sinclair
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14 Attorneys for Plaintiff Phoenix Technologies,
15 Ltd.
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18 I, Stephen J. Akerley, am the ECF User whose ID and password are being used to file this
19 Stipulation and [Proposed] Order Regarding Scheduling Matters. In compliance with General
20 Order 45, X.B., I hereby attest that Karineh Khachatourian has concurred in this filing.
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23 By: /s/
24 Stephen J. Akerley
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27 **O R D E R**
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29 PURSUANT TO STIPULATION, IT IS SO ORDERED.
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32 DATED: Nov. 5, 2009
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36 _____
37 The Honorable Claudia Wilken
38 United States District Judge
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